IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

THURSDAY, THE 6TH DECEMBER 2007 / 15TH AGRAHAYANA 1929

WP(C).No. 28359 of 2005(A)

PETITIONER:

K.RAJ KUMAR, M/S.HIGH TECH ENGINEERING
WORKS, PUTHIYAKAV, K.S.PURAM P.O.,
KARUNAGAPPALLY, KOLLAM DISTRICT.

BY ADV. SRI.B.S.SURESH (CHIRAKKARA)

RESPONDENTS:

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1. KERALA FINANCIAL CORPORATION,
REPRESENTED BY ITS MANAGING DIRECTOR,
K.F.C. HEAD OFFICE, VELLAYAMBALAM,
THIRUVANANTHAPURAM.

2. CHIEF MANAGER,
KERALA FINANCIAL CORPORATION, BRANCH OFFICE,
Y.M.C.A. BUILDING, KOLLAM.

BY ADV. SRI.A.A. ABUL HASSAN, SC

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 06/12/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1 TRUE COPY OF CASH RECEIPT VOUCHER OF THE LAST PAID INSTALMENT DATED 12.3.2004

EXT.P2 TRUE COPY OF THE COMPLAINT SUBMITTED BY THE PETITIONER TO THE 2ND RESPONDENT DATED 5.9.2005

EXT.P3 COPY OF THE NOTICE UNDER SECTION 29 OF THE SFC'S ACT ISSUED BY THE 2ND RESPONDENT DATED 12.9.2005

2ND RESPONDENT'S EXHIBITS:

EXT.R2(A) TRUE COPY OF THE STATEMENT OF ACCOUNTS AS ON 13.10.2005 ISSUED BY THE K.F.C.

TRUE COPY

P.S. TO JUDGE

C.N. RAMACHANDRAN NAIR, J.

W.P.C. NO. 28359 OF 2005

Dated this the 6th day of December, 2007

JUDGMENT

Standing counsel for KFC submitted that petitioner is a continuous defaulter and the stay order granted by this Court lapsed on account of petitioner's failure to remit Rs. 8 lakhs in two instalments under interim orders of this Court dated 22.2.2006. Petitioner is not denying the loan availed from the Corporation. However, petitioner's case is that even though the unit was not making profit, it started picking up in 2005. Even though petitioner committed default in payment of the amount in terms of interim order, I feel still, petitioner can be given one more opportunity to settle the liability. Accordingly, W.P. is disposed of directing the respondents to grant OTS benefit to the petitioner, if the petitioner offers payment within a reasonable time. Petitioner will within six weeks from today deposit 10% of the OTS amount and make application for the respondents to grant incentives. I make it clear that at least penal and default interest should be waived if the petitioner remits 10% of the OTS amount, makes application as above, and settles the liability within the time granted by the Corporation under OTS scheme.

(C.N. RAMACHANDRAN NAIR)
Judge